

September 21, 2009

Via ECFS

Marlene Dortch, Secretary
Federal Communications Commission
445 12th Street NW
Washington, DC 20554

RE: Notice of Ex parte, WC Docket 07-135

Dear Ms. Dortch,

David Frankel, CEO of ZipDX LLC met with the following individuals in the Wireline Competition Bureau via telephone conference on September 21, 2009: John Hunter, Al Lewis, Lynne Engledow, Doug Slotten and Jennifer Prime.

The discussion focused on the attached materials. Mr. Frankel stressed that the abuse of rural access charges has been allowed to linger for far too long. Access charge arbitrage is now extending to other areas. This undermines fragile funding mechanisms and will impede broadband enhancements. Rule clarifications proposed by ZipDX are non-controversial for any legitimate player not attempting to game the system. The Commission is obligated to address this promptly and should direct the WCB to draft an order to resolve the 07-135 docket.

Regards,

/s/
David Frankel
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cc: Call Participants, via E-mail

Traffic Pumping Gone Wild

September 2009

ZipDX



September 2009



07-135 Matters to this Small Business

- ZipDX wants to compete based on:
 - Customer preference for our user interface
 - Quality and security of our conferences
 - Intrinsic productivity & administrative benefits
 - Attractive pricing due to network & system efficiency
 - Our ability to out-conference the largest players!
- Thanks to regulatory anomalies, others are:
 - Offering products specifically to leverage arbitrage opportunities
 - Designing solutions not for technical or economic efficiency, but rather the opposite!
 - Confusing customers with unsustainable operating models
- ZipDX tries to “play by the rules”
 - We file 499A and pay USF thanks to your InterCall order
 - Are you really treating everybody fairly and equally?
 - Do your incentives promote good public policy?



The Problem

- ZipDX is a conferencing service provider; we charge our end-users for the services that they use.
- We operate in, and understand, the technologies and economics of both the PSTN and VoIP worlds
- A small group is “gaming the system” – using access charges to subsidize other services. They offer conference calling (and/or international calling, chat, etc.) for “free.”
- The presence of these “free” services distorts the market.
- End-users are being “taught” that these services can be “free.” But they are not free. This “cost-shifting” model is not sustainable or scalable.
- ZipDX complained to the FCC 18 months ago, asking that you either validate this arbitrage scheme, so that we can all use it, or you cut it off.
- The FCC has indicated that the arbitrage isn’t “right” but it hasn’t acted to stop it.
- Marketplace damage continues thanks to your inaction.



Abuse is Blatant; Getting Worse

- Free Conferencing Corp. brags that the Obama Presidential Campaign used 5 million minutes of free conferencing.
(<http://www.reuters.com/article/pressRelease/idUS128967+11-Mar-2009+BW20090311>)
(<http://www.foxbusiness.com/search-results/m/22081869/free-conference-calls.htm>)
- At 5¢/minute (typical charge for “paid” conferencing), that’s \$250K of business for which we could not compete (and \$32K not paid to USF)
- This is the tip of the iceberg
 - As technology shifts, providers are finding new ways to arbitrage access charges
 - Like the “obvious” examples, these schemes shift costs to “3rd-party payers,” distorting the marketplace and undermining the legitimate purpose of access charges
 - Not specific to RURAL access charges; it’s possible to game access charges in metro areas too!
- Two examples
 - One-number “find-me” service
 - 8XX Call Routing

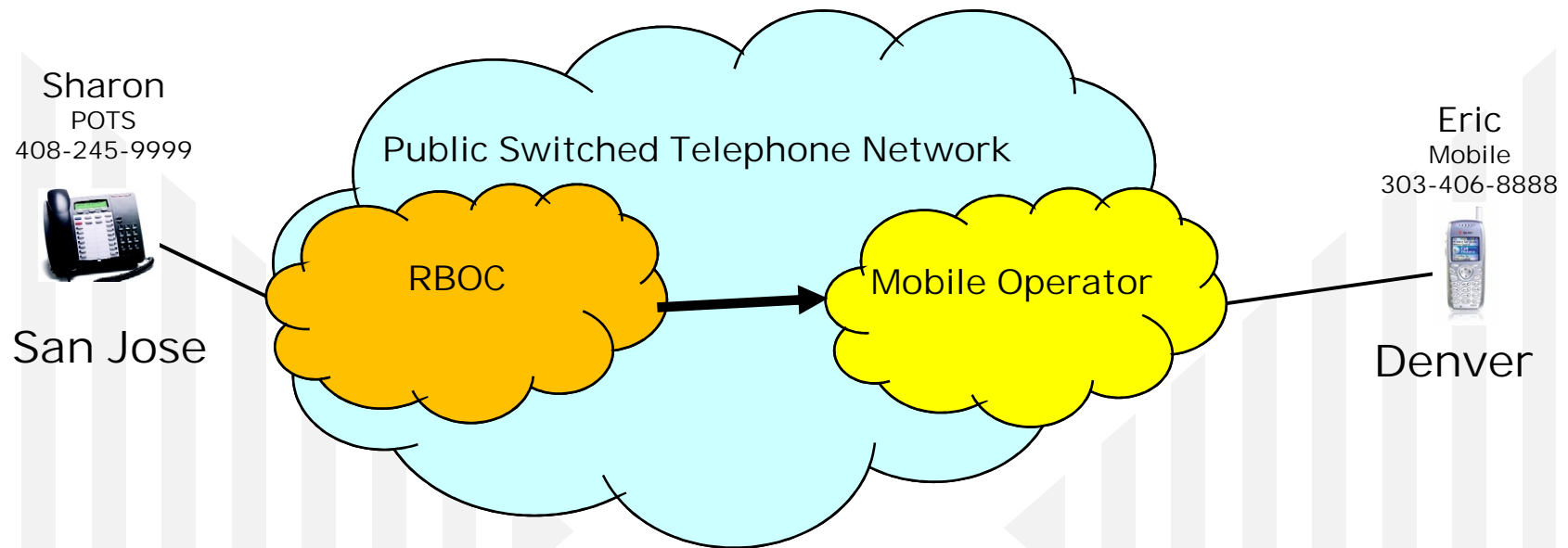


Other “Pumping” Schemes (1)

- Consider a “single number” service (call it SimRing or GoogleVoice)
 - Subscriber gets a new phone number
 - You can pick numbers from a giant list all over the country; most rate centers available
 - Instead of calling your mobile number, you direct your colleagues to call your new “Single Number”
 - The service forwards the call to your mobile (and/or other numbers)
 - All for Free!
- How do they do that?
- Every call now consists of two “legs”
 - A first leg from the Caller to the Service
 - A second leg from the Service to the Subscriber
 - The Caller (and their Carrier) pay for the first leg; the Service (and their Carrier) collect a terminating access charge for this leg (usually higher than RBOC rate)
 - The Second Leg (paid for by the Service and their Carrier) might pay NO ACCESS CHARGE (if the second leg is “local”) or a lower access charge (if the call terminates to an RBOC or mobile number)



Landline-to-Mobile Call Example

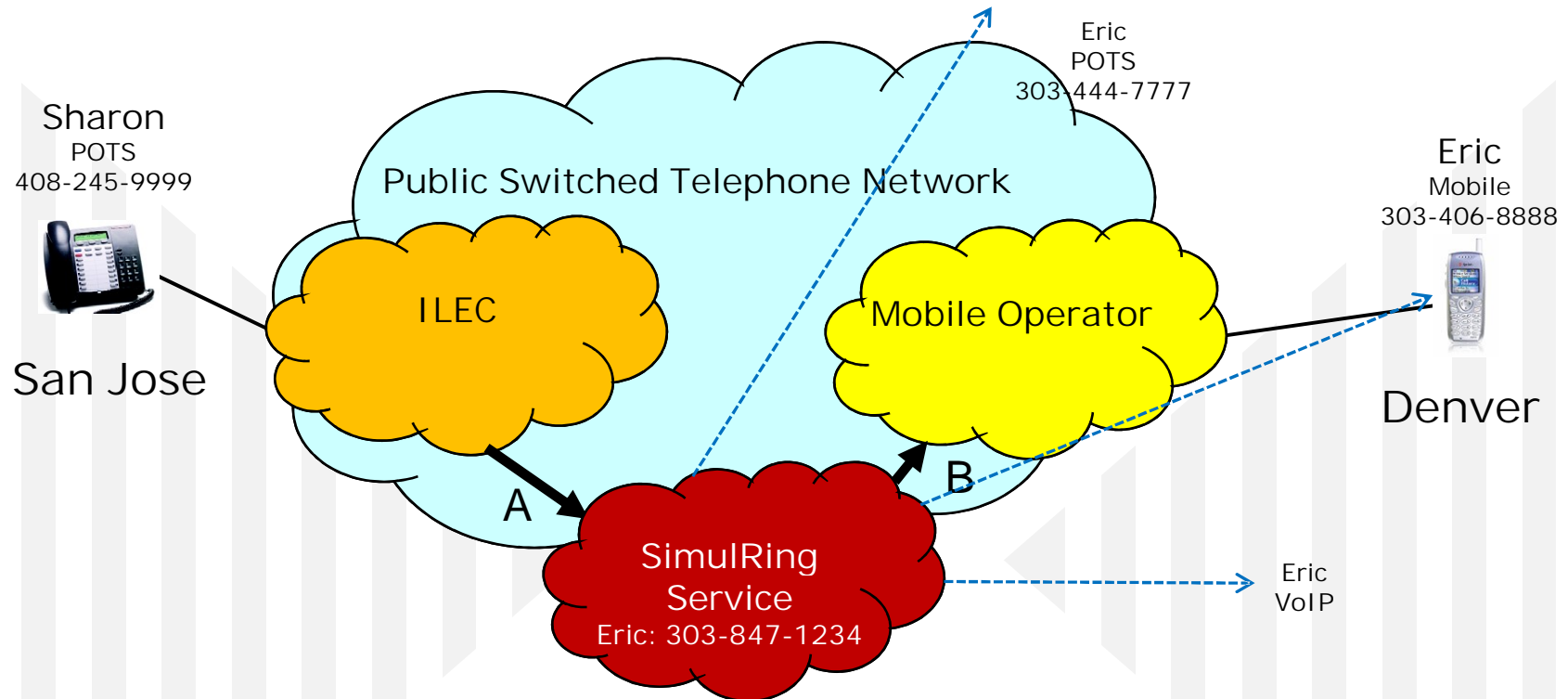


Simple call from landline subscriber
"Sharon" to mobile subscriber "Eric"

RBOC (or IXC) pays nominal terminating
access charge to Mobile Operator.



Landline-to-Mobile Call Example w/ SimulRing



Eric has subscribed to SimRing Service; it rings his three phones and he answers his mobile.

Now there are TWO simultaneous calls (A & B) and a less-efficient connection.

"A" is the call from San Jose to Denver; SimulRing's Carrier collects a terminating access charge.

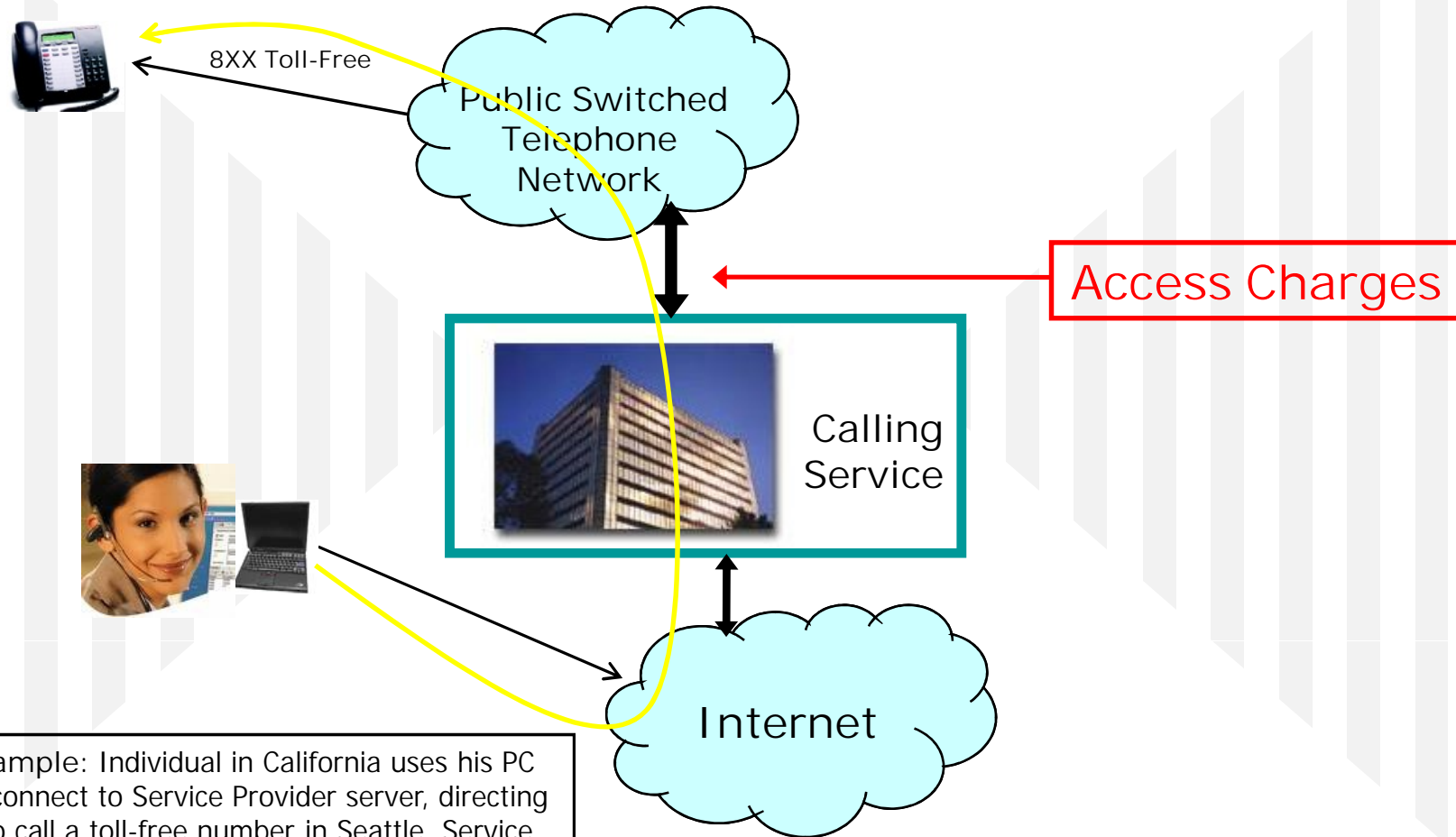
"B" is a local call within Denver; no access charges.

The fees paid by Sharon and Eric don't change. But Sharon's carrier has to pay a higher access charge to terminate the call to the SimRing service – even though terminating Call A does not even involve an access network! And Eric's mobile operator loses the access charge it previously received.



Other “Pumping” Schemes (2)

- Skype & other services let customers call 8XX numbers from their PC, for free.
- What are the network and cost implications of these “free” calls?



Example: Individual in California uses his PC to connect to Service Provider server, directing it to call a toll-free number in Seattle. Service Provider collects access charge for call to toll-free number owned by Seattle business.



PC-to-Toll-Free

- 13 calls from a PC in California to the same US 800 number (9/10/2009)
- The call was routed onto the PSTN 13 different ways by the same provider

ANI	LRN	ANI Rate Ctr	LRN Rate Ctr	Switch Loc
224-377-9931	312-725-0000	IL: Half Day	IL: Chicago-1	OK: Oklahoma City
202-580-8200	202-540-0000	DC: Zone 1	DC: Zone 1	CA: Sacramento
202-580-8200	202-540-0000	DC: Zone 1	DC: Zone 1	KS: Topeka
202-580-8200	202-540-0000	DC: Zone 1	DC: Zone 1	MN:
347-422-6991	646-360-0000	NY: New York-6	NY: New York-1	TN: Nashville
330-476-9971	234-738-0000	OH: Carrollton	OH: Akron	TN: Chattanooga
706-688-9902	404-939-0000	GA: Madison	GA: Atlanta	NJ: Pleasantville
530-362-8991	916-538-0000	CA: Nevada City	CA: Sacramento	TN: Chattanooga
631-647-0912	646-360-0000	NY: Bay Shore	NY: New York-1	IN: Evansville
773-299-8921	312-725-0000	IL: Chicago-6	IL: Chicago-1	NJ: Pleasantville
347-542-7972	646-360-0000	NY: New York-9	NY: New York-1	LA: Lake Charles
530-408-6901	530-636-0000	CA: Weed	CA: Chico	AL:
937-505-0962	937-985-0000	OH: Springfield	OH: Dayton	NH: Manchester

- Why is this so convoluted? 11 different ANI's, 9 different LRNs
- Calls enter PSTN from 10 different states (never matching ANI)



PC-to-Toll-Free

- These 8XX calls are obviously being routed circuitously
- Though not necessarily “rural,” the access charges for these calls are much higher than they would be if placed via conventional ILEC or mobile networks
- Signaling data (ANI and LRN) make it difficult to trace & reconcile
- The end-user placing the calls is unaware of these anomalies
- The owner of the 8XX number (and/or their carrier) is stuck with the charges



Other “No Access” Examples

- “Free DIDs” for end-users deploying VoIP phones (<http://www.ipkall.com>)
- 8XX access revenue sharing for mobile carriers (Hypercube)
- Subsidized “SIP Trunks” for business IP-PBX’s
- Artificial access elements to inflate charges (<http://www.bingham.com/Media.aspx?MediaID=6584>)
- Voice- and Fax-mail boxes
- Call Recording
- Traffic and dollar volumes can be significant:
 - 8XX calls are a large fraction of total minutes
 - Each carrier that re-routes traffic accounts for potentially billions of minutes/month
 - Consumer services drive huge numbers of minutes when aggregated
 - (1 billion minutes) times (\$0.005 incremental charge/minute) = \$5 million



Fallout

- Carriers are fighting each other in court
- Lack of clarity for resolving disputes
- Perpetrators “know they are wrong” but hide behind FCC regulations
- Now, some providers benefiting from Access Charges on one hand are getting burned on the other, and taking action:
 - MagicJack & GoogleVoice are accused of blocking calls to Free Conferencing providers
 - More end-users are frustrated and confused
- In the court of public opinion, it's all the FCC's fault



Telco Economics – Then & Now

- Fundamentally a fixed-cost business: Equipment & Facilities
- Per-minute (or per-bit) charges:
 - Are a mechanism to allocate costs based on usage
 - Provide funding for initial infrastructure, maintenance, and expansion
 - Supplement monthly subscription charges
- In the past:
 - Capital costs were immense (end-office line port ~\$150)
 - Outside plant expensive to build and maintain
 - Access charges help defray some OSP expense
- Now:
 - Telecom systems are built on commodity hardware (line port ~\$2)
 - Many new services have NO responsibility for outside plant
 - A profitable business can be funded by (urban) access charges alone
- Not what access charges were meant to address!





Access Abuse Undermines USF

- Existing Inter-Carrier Compensation Regime
 - Is integral to funding legacy infrastructure
 - Will necessarily take a long time to restructure
 - Universal Service Fund
 - Also integral to support of legacy policies and new broadband initiatives
 - Mechanisms are Under Stress due to:
 - Decline in wireline subscribership
 - Shifts to new forms of communications
 - Demands for broadband services
 - **DO NOT PERMIT UNDERMINING**
 - Arbitraging these mechanisms impairs their ability to do their jobs
 - Accelerates decline and convolutes new policy-making
1. Immediately prohibit arbitrage (no access charge when there's no access)
 2. Put operators on notice to discourage new schemes that provide no net economic benefit
 3. Separately, phase in a strategy to restructure legacy inter-carrier comp



Specific Suggestions

- Access Charges do not apply when there is no access. When the majority of calls to a service are answered by mechanized systems, access charges do not apply.
- Carriers without financial responsibility for physical access facilities are:
 - Not entitled to access charges,
 - Or are benchmarked to ILEC or mobile operator rates (only certain elements?),
 - Or are capped at \$0.0007/minute
 - ... depending on your social/political agenda
- Connections to the PSTN must be done in the MOST EFFICIENT way possible (as opposed to introducing INEFFICIENT connections just to collect access charges); exception for outages & congestion.
- Signaling data must accurately reflect call origin. Data cannot be manipulated to arbitrage access rates.
- Providers that cannot determine the “real” origin of traffic they originate onto the PSTN must use consistent “generic” identifiers. All such traffic is presumed to be interstate.
- Carriers must make Web-accessible their access tariff rates & methodology.
- The FCC sponsors a web forum for industry vetting of anomalous practices.



Contact Information

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